

D.P.U. 92-233-B

Application of Executone Information Systems, Inc. under the provisions of G.L. c. 159 for a certificate of public convenience and necessity to operate as a resale, value-added, or interexchange common carrier within the Commonwealth of Massachusetts.

---

APPEARANCE:     Barbara C. Anderson  
                         Vice President and General Counsel  
                         6 Thorndal Circle  
                         Darien, Connecticut 06820  
                         FOR: EXECUTONE INFORMATION SYSTEMS,  
                         INC.  
                         Applicant

## I. INTRODUCTION

On October 16, 1992, pursuant to G.L. c. 159, Executone Information Systems, Inc. ("Executone" or "Company") filed with the Department of Public Utilities ("Department"), an application for a certificate of public convenience and necessity ("certificate") to provide intrastate telecommunications services in the Commonwealth of Massachusetts. On May 6, 1993, the Department issued an order finding, inter alia, that Executone acted in violation of G.L. c. 159 and Orders of the Department by providing such service without the requisite certificate and approved tariff. Executone Information Systems, Inc., D.P.U. 92-233 (1993). The Department directed the Company to refund monies billed and collected for Massachusetts intrastate calls carried by the Company during the time it was not certified by the Department. Id. at 3. The Department held the record open in order for the Company to submit proof of customer refunds. Id. at 3-4. On October 27, 1993, the Company amended its application.

On May 26, 1993, the Company filed with the Department a letter requesting clarification of its Order in Executone Information Systems, Inc., D.P.U. 92-233 (1993). Specifically, the Company sought clarification of three issues: the refund period, the amount of money to be refunded, and the form of the refund. On September 10, 1993, the Department issued an Order on Motion for Clarification. Executone Information Systems, Inc., D.P.U. 92-233-A (1993). The Department directed the Company to refund monies billed and collected from Massachusetts customers for intrastate service from October, 1990, when the Company commenced providing intrastate telecommunications service within Massachusetts, through May 6, 1993, or such earlier date that the Company may have ceased providing service. Id. at 3-4. The Department also

directed the Company to refund 100 percent of the monies it billed and collected from Massachusetts customers for intrastate services. Id. at 4. The Department further directed the Company to inform all affected customers in writing of the refunds directed by the Department and to indicate that the customers may choose between receiving the refund in the form of a check in the total amount to be refunded or in the form of a one-time credit. Id. at 5. The Department directed the Company to submit a copy of the letter and proof of the customers' refunds to the Department by December 31, 1993. Id. at 5-6. On January 27, 1994, the Company filed with the Department (1) a copy of the type of letter it sent to affected Massachusetts customers; (2) a list of the affected customers entitled to a refund or credit; and (3) a list of customers whose intrastate charges were completely written off due to non-payment.

## II. ANALYSIS AND FINDINGS

The Department finds that the Company's submission of January 27, 1994 complies with the directives contained in our Orders of May 6, 1993 and September 10, 1993. Specifically, we find that the Company has demonstrated that it has refunded or credited charges for Massachusetts intrastate calls carried when it did not have an approved tariff or possess the requisite certificate from the Department.

Further, based on the verified application and related materials filed on October 16, 1992, the Department finds that the Applicant is financially, managerially, and technically qualified to provide telecommunications services in Massachusetts. As to the issue of public need, the Department has previously found that it is in the public interest to allow competition in Massachusetts. IntraLATA Competition, D.P.U. 1731 (1985). In both MCI Telecommunications

Corporation, D.P.U. 1655 (1984) and GTE Sprint Communications Corporation, D.P.U. 84-12 (1984), the Department determined that intrastate interLATA competition provides substantial benefits to the public in Massachusetts. In addition, the Department further recognized that the presence of competition in the telecommunications market affords Massachusetts consumers a wider variety of service offerings and provides increased incentive for just and reasonable pricing. First Phone, Inc., D.P.U. 1581 (1984); U.S. Telephone, Inc., D.P.U. 85-46 (1985). Therefore, the Department finds that the public convenience and necessity will be served by the approval of the application for certification as an intrastate carrier.

### III. ORDER

Accordingly, after due notice, and consideration, it is

ORDERED: That the application of Executone Information Systems, Inc. filed with the Department on October 16, 1992, and amended on October 27, 1993, for a certificate of public convenience and necessity to provide intrastate telecommunications service as a resale, value-added, or interexchange common carrier be and hereby is approved; and it is

FURTHER ORDERED: That Executone Information Systems, Inc. may not provide intrastate telecommunications service within Massachusetts until a tariff has been approved by the Department.

By Order of the Department,